



Energy West Mining Company  
P.O. Box 310  
15 No Main Street  
Huntington, Utah 84528

July 15, 2009

Utah Coal Program  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

**Subject: Response to Deficiencies in the Trail Mountain Mine, Mid-Term Review, PacifiCorp, Trail Mountain Mine, C015/0009, Task ID #2878, Emery County, Utah**

PacifiCorp, by and through its wholly-owned subsidiary, Energy West Mining Company ("Energy West") as mine operator, hereby submits responses to the deficiencies of the Trail Mountain Mine, Mid-Term Review.

Energy West received the Deficiency List document on February 18, 2009. The Division determined that there were some deficiencies that need addressed as part of the Mid-Term Review in order for the MRP to comply with the R645 Coal Mining Rules.

Attached with this document are the permittee's responses to the deficiencies accompanied with information pertinent to the deficiencies. Four (4) copies are attached as required along with the required C1/C2 forms.

If you have any questions or concerns regarding this document, please contact myself at (435) 687-4720 or Dennis Oakley at (435) 687-4825.

Sincerely,

*Kenneth S. Fleck*

Kenneth Fleck  
Geology and Environmental Affairs Manager

Enclosure: Response to Deficiency List  
C1/C2 Forms

Cc: File

File in:  
C/015/0009/2009 Incoming  
Refer to:  
☐ Confidential  
☐ Shelf  
☒ Expandable  
Date: 07/15/2009

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# APPLICATION FOR COAL PERMIT PROCESSING

Permit Change ☒ New Permit ☐ Renewal ☒ Exploration ☐ Bond Release ☐ Transfer ☐

**Permittee:** PacifiCorp

**Mine:** Trail Mountain Mine

**Permit Number:** C/015/0009

**Title:** Response to Deficiencies in the Trail Mountain Mine, Mid-Term Review

**Description,** Include reason for application and timing required to implement:

**Instructions:** If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- |   |   |
|---|---|
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 1. Change in the size of the Permit Area? Acres: _____ <input type="checkbox"/> increase <input type="checkbox"/> decrease. |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 2. Is the application submitted as a result of a Division Order? DO# _____  |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?               |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 4. Does the application include operations in hydrologic basins other than as currently approved?                           |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?                   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 6. Does the application require or include public notice publication?   |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 7. Does the application require or include ownership, control, right-of-entry, or compliance information?                   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?                   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9. Is the application submitted as a result of a Violation? NOV # _____   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 10. Is the application submitted as a result of other laws or regulations or policies?<br><i>Explain:</i> _____             |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 11. Does the application affect the surface landowner or change the post mining land use?                                   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)          |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 13. Does the application require or include collection and reporting of any baseline information?                           |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?                     |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 15. Does the application require or include soil removal, storage or placement?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 16. Does the application require or include vegetation monitoring, removal or revegetation activities?                      |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 17. Does the application require or include construction, modification, or removal of surface facilities?                   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 18. Does the application require or include water monitoring, sediment or drainage control measures?                        |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 19. Does the application require or include certified designs, maps or calculation?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 20. Does the application require or include subsidence control or monitoring?   |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 21. Have reclamation costs for bonding been provided?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?                        |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 23. Does the application affect permits issued by other agencies or permits issued to other entities?                       |

**Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you.** (These numbers include a copy for the Price Field Office)

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

Kenneth Fleck  
Print Name

Kenneth S. Fleck  
Sign Name, Position, Date

Manager of Environmental Affairs JULY 15, 2009

Subscribed and sworn to before me this 15<sup>th</sup> day of July, 2009

Suzadeiana Duran  
Notary Public

My commission Expires:

Attest: State of Utah DEC, 21, 2010 } ss:  
County of Emery



**For Office Use Only:**

**Assigned Tracking Number:**

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**DIV. OF OIL, GAS & MINING**

# APPLICATION FOR COAL PERMIT PROCESSING

## Detailed Schedule Of Changes to the Mining And Reclamation Plan

**Permittee:** PacifiCorp

**Mine:** Trail Mountain Mine

Permit Number: C/015/0009

**Title:** Response to Deficiencies in the Trail Mountain Mine, Mid-Term Review

Provide a detailed listing of all changes to the Mining and Reclamation Plan, which is required as a result of this proposed permit application. Individually list all maps and drawings that are added, replaced, or removed from the plan. Include changes to the table of contents, section of the plan, or other information as needed to specifically locate, identify and revise the existing Mining and Reclamation Plan. Include page, section and drawing number as part of the description.

### DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED

[illegible]

**Any other specific or special instruction required for insertion of this proposal into the Mining and Reclamation Plan.**

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The following responses to deficiencies are formatted as found in the technical analysis document. They are broken down into logical section headings similar to the R645 regulations. In each section, the regulation number along with the associated deficiency is followed by the permittee's italicized response.

**R645-301-111.400**, Corporate ownership and control information in Appendix A of the Legal Financial Volume was last updated and incorporated September 4, 2008. Please provide notarized Secretary signature for each parent company's officer and director information.

- With Secretary signature, please verify the new position of John Diesing, Jr. as Vice President (rather than Senior Vice President) of MEHC.
  - *Since MEHC's acquisition of PacifiCorp on March 21, 2006, John Diesing, Jr. has always been an officer of MEHC in some capacity. His current position is Vice President of Corporate Insurance and AON Risk Services. See the latest listing for most current information.*
- With Secretary signature, please verify the end dates provided for Mark C. Moench and William J. Fehrman, past officers with MidAmerican Energy Holdings Company, as they are the same as the listed starting dates.
  - *Upon MEHC's acquisition of PacifiCorp on March 21, 2006, Mark C. Moench and William J. Fehrman resigned as officers of MEHC on March 21, 2006. Also, on this same date, Mark C. Moench was elected as a director of PacifiCorp. Likewise, William J. Fehrman was elected as president of PacifiCorp Energy (an unincorporated business division of PacifiCorp) and a director of PacifiCorp on March 21, 2006. So, their start and end dates for their MEHC positions are correct in this situation. Also, in this case, their start dates for their roles with PacifiCorp is the effective date of when MEHC acquired PacifiCorp.*
- With Secretary signature, please verify the "current" status of Jeffrey Erb, Assist. Secretary of PacifiCorp. Previous information indicated an end date of May 17, 2006 of Mr. Erb.

*Jeff Erb's capacity as an elected Assistant Secretary of PacifiCorp originally began effective 3/13/2002. Upon MEHC's acquisition of PacifiCorp on 3/21/2006, the listing of this was inadvertently deleted from the "elected" officer listing, showing an end date of 5/17/2006. Mr. Erb has at all times since 3/13/2002 remained as an elected Assistant Secretary of PacifiCorp.*

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- Please verify whether PacifiCorp Energy is a parent entity to PacifiCorp and if so, provide a list of officers and directors with accompanying Secretary signature for the beginning and ending dates.
  - *To clarify this issue: PacifiCorp Energy is not an incorporated legal entity. PacifiCorp Energy is the business name of an unincorporated business division of PacifiCorp. PacifiCorp is made up of three such unincorporated business divisions, and they are: PacifiCorp Energy, Rocky Mountain Power and Pacific Power. Again, these are business names of unincorporated divisions of PacifiCorp, an Oregon corporation. The respective presidents of these three business divisions are officers of PacifiCorp and are shown on the officer listing. In contrast, PacifiCorp's mining entities are wholly-owned incorporated subsidiaries of PacifiCorp.*
- Please indicate the connection between Interwest Mining Co. and Energy West Mining Co.
  - *Interwest Mining Company is a wholly-owned subsidiary of PacifiCorp that provides management and support services to PacifiCorp's operating mining companies – it has no direct ownership interest in mining assets.*
  - *Energy West Mining Company is a wholly-owned subsidiary of PacifiCorp that conducts the actual mining operations and is PacifiCorp's designated resident agent for all mine permitting responsibilities for the Trail Mountain Mine, Cottonwood Mine, Deer Creek Mine and the fully reclaimed Des-Bee-Dove Mine complex.*
- Show the relationship of all parent entities and affiliates on an ownership family tree. (PB)
  - *See the attached illustration depicting the overall corporate structure.*
  - *An updated officer and director list has been included with this submittal to replace any obsolete versions that you may have on file. Given the overall size, complexities and changing dynamics of our organizations together with our interpretation of the regulations, these listings will not be signed and notarized by corporate secretary(s). However, the resident agent assigned by PacifiCorp and accepted by the Division, has signed and notarized the C1 form certifying that all information submitted to the Division is true and correct to best of his knowledge and belief. Please accept this information knowing that we are providing the best information available to us from our corporate entities. At times there might be inadvertent errors and we will correct them as discovered as this is the reason for providing you with an updated officer and director listing. Please incorporate this latest listing into the Legal and Financial Volume and remove the latter. Your understanding of this matter is greatly appreciated.*



**R645-301-113.300**, At a minimum, either Appendix D or Page 1-2 of the Legal and Financial Volume must discuss Paul Leighton's connection with the two unabated federal violations (900101060 and 900101156) written in 1983 on Pennsylvania permits 360268501S and 360356301S, for nonpayment of AML fees. These violations are linked to PacifiCorp through Paul Leighton, appointed Vice President of MEHC in March 2006. (PB)

*PacifiCorp coordinated with Daron Haddock (permit supervisor) to resolve this issue. OSM, through the Division, suggested that PacifiCorp challenge the AVS ownership and control finding in accordance with 30 CFR 773.27. PacifiCorp began this process to challenge the findings and submitted the required documentation and evidence through its legal counsel, John Kirkham of Stoel Rives.*

*Based on the information provided by Mr. Kirkham in the challenge letter to the Division dated June 2, 2009, Paul Leighton did not own or control the entities associated with the outstanding AML fees. Mr. Leighton's involvement was solely as an administrator to conclude the affairs of the dissolved companies. His only authority was to carry out specific ministerial functions of Alumbaugh Coal Corporation and Coal Junction Coal Company in their dissolution phase.*

*In the Division's finding letter dated June 22, 2009, the Division concurs with the information and supportive evidence provided by Mr. Kirkham and finds that Mr. Leighton did not have the ability to control the operations of Coal Junction Coal Company or Alumbaugh Coal Corporation.*

*The Division has assured us that they will work with OSM's AVS system office to reflect their decision. When the findings by the Division have been reflected by OSM, the link between Mr. Leighton and the alleged non-payment of AML fees will be eliminated from the AVS database. This process may take considerable time to complete. In spite of this time component, Ms. Dana Dean (Associate Director) has communicated to PacifiCorp that this issue should not hold up the mid-term review process.*

**R645-300-132**, The permittee must provide documentation of correspondence with the Office of Surface Mining showing that these violations have been or are in the process of being corrected or that a judicial appeal was filed contesting the validity of the violations, and its resolution (R645-300-132.110). (PB)

*See previous deficiency response.*

**R645-301`-121.100, -121.200,** In Sections 7.2.4.2, 7.5.2, and 7.5.3, the Permittee must either provide the missing Figures or rewrite the text of the MRP so that the correct figures are referenced.

Figure 7-1	This figure does not show information described in the text (p. 7-35), and the information is not on another figure.	This figure is correctly referenced in Section 7.1.1
Figure 7-7	This figure does not show information described in the text (p. 7-39), and the information is not on another figure.	This figure is correctly referenced in Section 7.2.4.1.
Figure 7-8	This figure does not show the information described in the text (pp. 7-50 and 7-51).	This information is on Figure 7-12.
Figure 7-13	This figure does not show information described in the text (p. 7-41), and the information is not on another figure.	This figure is correctly referenced in Section 7.4.3.
Figure 7-14	Does not exist in the MRP.	The information is on Figure 7-9.
Figure 7-15	Does not exist in the MRP.	The information is on Figure 7-10.
Figure 7-16	Does not exist in the MRP, but it is not clear whether or not this figure # is referred to anywhere in the text of the MRP.	
Figure 7-17	Does not exist in the MRP.	This information is on Figure 7-11.

(JS)

*The Permittee has reviewed Chapter 7 and amended it so the figures are correctly referenced. The entire chapter is attached to eliminate any pagination errors from occurring.*

**R645-301-541,** The Division must be provided with possible future reactivation plans. (IW)

*The regulation cited does not require the permittee to provide reactivation plans for mines that are in temporary cessation. However, it is PacifiCorp's general policy to be upfront and open when discussing mining and reclamation plans for their mining operations. It is a well known fact that the reserves at the Trail Mountain Mine have been nearly depleted. And the Cottonwood Lease Tract was not successfully bid by PacifiCorp. For these reasons, the mine remains in cessation. It is not known at the present time of any future reactivation plans for the Trail Mountain Mine. Reactivation plans or a notice of reclamation will be relayed to the Division as these future decisions unfold.*

**R645-301-812.700,** The current posted bond amount is insufficient to reclaim the site. The permittee must post an additional \$100,000.00 of reclamation bond as surety in order to meet the requirements of R645-301-812.700. (PH)

*PacifiCorp has provided a rider bond to the Division increasing the reclamation bond amount from \$1,254,000 to \$1,354,000. This rider bond has been accepted by the Division effective April 27, 2009.*